

Application No.: 10/811,895

## REMARKS

### I. Introduction

In response to the pending Office Action, Applicants have amended claims 1 and 10 in order to further clarify the subject matter of the present invention and to correct any inadvertent errors. Support for the amendments to claims 1 and 10 may be found, for example, in Fig. 1 of the drawings. No new matter has been added.

Applicants note with appreciation the indication of allowable subject matter recited in claims 8 and 18 of the present invention.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art references.

### II. The Rejection Of Claims 3 And 13 Under 35 U.S.C. § 112

Claims 3 and 13 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that the phrase "wherein the rotor hub and the rotor-side bearing member *are made of a same material* and formed integrally" lacks support in the specification.

In the pending Office Action, the Examiner appears to have failed to respond to the applicants argument in support of the above cited limitation of claims 3 and 13. As stated previously, the passage on page 11, line 27-page 12, line 4 of the specification states "here, rotor hub 2 and rotor-side bearing member 3 *need not be made as separate components*". Thus, they may be made of the same material! If two elements are not made as separate components, then they must be made as the same component, and therefore can be made of the same material. Thus, the specification does support the claim limitation that the rotor hub and the rotor-side

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bearing member are made of a same material. Accordingly, Applicants respectfully request that the § 112 rejection of claims 3 and 13 be withdrawn.

**III. The Rejection Of Claims 1 And 2 Under 35 U.S.C. § 102**

Claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hichiya et al. (JP 05-060135). Applicants respectfully submit that Hichiya fails to anticipate the pending claims for at least the following reasons.

With regard to the present invention, amended claims 1 and 10 both recite, in-part, a spindle motor comprising: a chassis having a protruding portion in an area around the support column, and a height of the protruding portion is greater than a height of the stator-side bearing member; and wherein the support column, the rotor-side bearing member, the stator-side bearing member and the protruding portion are disposed in this order from a central axis, and the protruding portion is disposed outside the fluid bearing.

It is alleged that Hichiya teaches the limitation of claims 1 and 10, "wherein the chassis has a protruding portion in an area around the support column, and a height of the protruding portion is greater than a height of the stator-side bearing member". To support this allegation, the Examiner states that Hichiya teaches that the alleged protruding portion 3h or 7 of the chassis 3 has a height higher than the alleged stator-side bearing member 1a. However, it appears that the Examiner has mis-identified the elements of the cited prior art. The grooves 1a on the support column 1 of Hichiya appear to be dynamic pressure generating grooves, and therefore, are not the stator-side bearing member (see, Fig 1 of Hichiya). Furthermore, it appears that the protruding portion 7 is the stator-side bearing member, and not a portion of the chassis 3. In fact, the machine translation of Hichiya refers to reference numeral 7 as the receiving member (see,

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abstract of Hichiya). This should be interpreted as a stator-side bearing member, not a chassis. Moreover, the figures of Hichiya clearly show that the chassis 3 is a separate element from that of reference numeral 7. As such, Applicants respectfully submit that reference numeral 7 is the stator-side bearing member. Thus, as the stator-side bearing member 7 is at a height greater than the protruding portion of the chassis 3, Hichiya fails to disclose the limitation from claims 1 and 10 of a chassis having a protruding portion in an area around the support column, and a height of the protruding portion is greater than a height of the stator-side bearing member.

Moreover, assuming that the Examiner were correct in his labeling of the elements of Hichiya, then Hichiya would disclose a motor having, in order from the center axis radiating outward, a support column 1, a stator-side bearing member 1a, a rotor-side bearing member 2 and a protruding portion 7. Accordingly, Hichiya would fail to disclose the limitation of amended claims 1 and 10 wherein the support column, the rotor-side bearing member, the stator-side bearing member and the protruding portion are disposed in this order from a central axis. As such, if the Examiner were correct with regard to the labeling of the parts of the motor of Hichiya, Hichiya would still not disclose all of the limitations of the present invention. Accordingly, Applicants respectfully submit that Hichiya fails to anticipate claims 1 and 10 of the present invention.

Anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently in a prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), and Hichiya does not disclose a spindle motor comprising: a chassis having a protruding portion in an area around the support column, and a height of the protruding portion is greater than a height of the stator-side bearing member; and wherein the support column, the rotor-side bearing member, the stator-side bearing member and

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the protruding portion are disposed in this order from a central axis, and the protruding portion is disposed outside the fluid bearing. Therefore, it is clear that Hichiya fails to anticipate amended claims 1 and 10 or any dependent claims thereon, and Applicant respectfully requests that the § 102 rejection be traversed.

**IV. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable**

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 1 and 10 are patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

**V. Conclusion**

Having responded to all open issues set forth in the Office Action, it is respectfully submitted that all claims are in condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper.

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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